

**Government of Himachal Pradesh
Department of Home**

No. Home-B (B) 15-10/2006-HC Dated; Shimla-2, the 27/07 /2015.

Notification

In exercise of the powers vested in him under Sub-Section (1) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to confer the powers of Executive Magistrates upon the Naib Tehsildar /Tehsildars in the State of Himachal Pradesh, under the said Code to be exercised within the local limits of their respective jurisdictions for performing the functions enlisted at Sr. No, 2 to 8 of this Department's letters No. Home-B (B)-12-5/84 dated 4-12-84 and 28.12.84 (Copies enclosed).

The function enlisted at Sr. No. 1 (cases under Criminal Procedure Code) of above letters shall be performed by the Sub Divisional Magistrates, who either belong to the IAS or HPAS. They will not transfer such cases to other Executive Magistrate except in rare and exceptional case and for pressing reasons. When the cases under Criminal Procedure Code are required to be transferred, the same will be transferred to such

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Executive Magistrates, who have passed the Departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be atleast Graduate in case of direct recruits and Matriculation in case of promotees with atleast 5 years of experience by recording reasons for transfer on the case file as well as in the periodical returns submitted by the Executive Magistrates to the High Court.


This is in supersession of this department notification of even number dated 11.3.2011.

BY ORDER,

Parthasarathi Mitra
Chief Secretary (Home) to the
Government of Himachal Pradesh
☎ 0177- 2621022

Endst. No. Home-B (B) 15-10/2006 Dated: 27/07/2015.
Copy for information & necessary action is forwarded to:-

1. The Addl. Chief Secretary (Rev) to the Govt. of H.P.
2. The Registrar General, High Court of H.P., Shimla-1.
3. The Secretary (Law) to the Govt. of H.P. Shimla-2.
4. The Divisional Commissioners, Shimla, Mandi, Kangra.
5. All the Settlement Officers in Himachal Pradesh.
6. All the District & Sessions Judges in Himachal Pradesh.
7. All the Deputy Commissioners in Himachal Pradesh.
8. Controller, Printing and Stationery, H.P. Shimla-5 for publication in Rajpatra.


(Devinder Saraswati)
Joint Secretary (Home) to the
Government of Himachal Pradesh
☎ 0177- 2626450

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No.Home-B(B)-12-5/84,
Government of Himachal Pradesh
Home Department.

From

The Secretary (Home) to the
Government of Himachal Pradesh.

To

All the District Magistrates in
Himachal Pradesh,

Dated Shimla-2, the 4 th December, 1984.

Sir,

I am directed to invite your attention to this Department letter of even number dated 28th July, 1984 and to state that the Executive Magistrates are required to discharge varied functions under various Laws within their jurisdiction. These functions can be broadly summarised as follows:-

- (1) Enquiry and trial of cases under the Criminal Procedure Code;
- (2) Attestation of true copies of certificates;
- (3) Attestation of Affidavits under Indian Oath Act;
- (4) Issue of bonafide residence certificates, certificates of income and Certificates of Scheduled Caste and Scheduled Tribe etc.
- (5) Functions under the Punjab Police Rules, as applicable to Himachal Pradesh;
- (6) Functions under the Land Acquisition Act;
- (7) Attestation of certificates and forms etc. for admission to educational institutions etc.;
- (8) Any other miscellaneous functions which do not involve recording of evidence, sifting of evidence, application of mind and writing of order.

2. In so far as functions of the Executive Magistrate under the Criminal Procedure Code are concerned, these involve recording of evidence, sifting of evidence, application of mind and issue of orders.

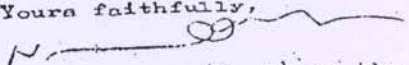
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3. It has been decided by the State Government that the Sub Divisional Magistrates, who either belong to the Indian Administrative Service or to the Himachal Pradesh Administrative Service only will take cognizance of cases under the Criminal Procedure Code which involves recording of evidence, sifting of evidence, application of mind and issue of order. They will ordinarily not entrust any such case to any other Executive Magistrate working under them within their jurisdiction unless there are pressing reasons and the officer to whom such cases are transferred, is fully qualified to enquire into and try such cases. Other Executive Magistrates, who are Naib-Tehsildars and Tehsildars working in the interior of the State, shall only perform functions enlisted from Serial No.2 to 8 above, which do not involve issue of judicial/quasi-judicial orders.

4. The Sub Divisional Magistrates who are also Executive Magistrates, will primarily try and enquire into the cases which involve recording of evidence, appreciation of evidence, application of mind and issue of order and would be only those officers, who have passed the Departmental examination paper in Criminal Law and Procedure prescribed for them and would have undergone the training either in any institution or otherwise on the job or have gained sufficient experience of work. However, under pressing circumstances such cases may be entrusted to the other Executive Magistrates under them, who will be only such officers who have passed the departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be at least Graduate in case of direct recruits and Matriculation in case of promotees with at least 5 years of experience.

Yours faithfully,


Deputy Secretary (Home) to the
Government of Himachal Pradesh.

IMMEDIATE

No.Home-B(B)-12-5/84
Government of Himachal Pradesh
Department of Personnel(A-I)

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From

The Secretary(Home) to the
Government of Himachal Pradesh.

To

All the District Magistrates in
Himachal Pradesh.

Dated Shimla-2, the 28th December, 1984.

Subject: Powers of Executive Magistrates.

Sir,

In continuation of this Department letter of even number, dated the 4th December, 1984, on the subject cited above, I am directed to state that Criminal Writ Petition No.12 of 1984(Om Prakash & others Vs State of H.P.& others) came up before the Hon'ble Himachal Pradesh High Court on 10th December, 1984. A copy of the order passed by the Hon'ble H.P. High Court is enclosed. As directed therein all Sub-Divisional Magistrates (who either belong to the IAS or RPAS) may be directed not to transfer cases under Criminal Procedure Code which involve recording of evidence, sifting of evidence etc. except in rare and exceptional cases and for pressing reasons. When such cases are required to be transferred to other Executive Magistrates (who have passed the Departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be at least Graduate in case of direct recruits and Matriculation in case of promotees with at least 5 years of experience), the reasons for such transfer should be clearly recorded on the case file as well as in the periodical returns submitted by the Executive Magistrates to the High Court. The cases where such transfer has been effected should be clearly shown by the Sub-Divisional Magistrates, who have ordered the transfer, in such periodical returns with the recorded reasons for such transfer.

All concerns should observe these orders faithfully and punctually.

Yours faithfully,

Deputy Secretary(Home) to
the Govt. of Himachal Pradesh.

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No.Home-B(B)-12-5/84 Dated Shimla-2, the 28th December, 1984.

1. Copy alongwith a copy of enclosures forwarded to all the Sub-Divisional Magistrates in Himachal Pradesh for strict compliance. These orders should be observed faithfully and punctually as directed by the Hon'ble H.P. High Court.

2. Copy to the Registrar(Vigilance), Himachal Pradesh High Court, Shimla.

3. Copy to the Advocate General, Himachal Pradesh, Shimla, in connection with Cr.W.P.No.12 of 1984(Sh. Om Prakash & others Vs State of H.P. & others).

Deputy Secretary(Home) to the
Govt. of Himachal Pradesh.